EX PARTE OR LATE FILED

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Kathleen Q. Abernathy
Vice President - Regulatory Affairs

U S WEST

January 21, 1999

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Mail Stop 1170
Washington, D.C. 20554

RE: CS Docket No. 98-147, Deployment of Wireline Services Offering Advanced Telecommunication Capability

Dear Ms. Salas:

Enclosed is a letter with attachment submitted today as a written ex parte to the Chairman and all Commissioners. Please include this letter and the attachment in the record for the above referenced proceeding.

In accordance with Section 1.1206(b)(1) of the Commission's rules, the original and one copy of this letter, with attachment, are being filed with your office. Acknowledgment and date of receipt of this transmittal is requested. A duplicate of this letter is included for this purpose.

Please contact me should you have any questions concerning this matter.

Sincerely,

Kathleen Q. Abernathy

Attachment

No. of Copies rec'd 0+1
List ABCDE

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Kathleen Q. Abernathy
Vice President - Regulatory Affairs

U S WEST

January 21, 1999

Chairman William Kennard
Federal Communications Commission
445 12th Street, NW, 8th Floor
Washington, DC 20554

RE: CC Docket 98-147 Deployment of Wireline Services Offering Advance Telecommunications Capability

Dear Chairman Kennard:

Since the Commission is considering what unbundling and resale obligations should apply in the advanced services context, I wanted to offer further analysis regarding the Communications Act's requirements. As U S WEST stated in its comments, requiring an incumbent LEC that offers advanced services on an integrated basis to provide unbundled loops and collocation space is both sufficient to ensure fair competition and consistent with the Act. Adopting additional unbundling obligations for packet-switched data facilities — with respect to which incumbents have absolutely no advantage over new entrants — would needlessly hamper the deployment of advanced services.

The 1996 Act gives the Commission the authority to allow incumbent LECs to provide advanced services on an integrated basis without unbundling the advanced services electronics or reselling wholesale services at a discount. The plain terms of sections 251(d)(2) and 251(c)(4) of the Act warrant this result, particularly in light of the deregulatory thrust of section 706; this course would not require the Commission to forbear from enforcing any provision of the Act.

Section 251(d)(2) gives the Commission the discretion to "determin[e] what network elements should be made available" among those potentially subject to unbundling. 47 U.S.C. § 251(d)(2). Congress specified two facts that the Commission "*shall* consider, at a minimum": whether the failure to provide access to a particular network element would "impair" the ability of requesting carriers to provide service and, in the case of a proprietary element, whether unbundled access to that element is "necessary." *Id.* The impairment standard in section 251(d)(2) entitles a new entrant to obtain an

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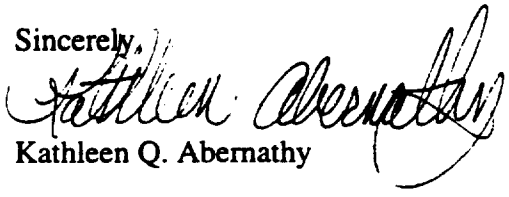

Kathleen Q. Abernathy

CC: Mr. Thomas Power

2/ *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, ¶ 874 (1966) (characterizing exchange access as a "fundamentally non-retail service" to which Congress never intended section 251(c)(4) to apply).

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Federal Communications Commission
445 12th Street, NW, 8th Floor
Washington, DC 20554

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Kathleen Q. Abernathy

CC: Mr. Kyle Dixon

[2/] *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, ¶ 874 (1966) (characterizing exchange access as a "fundamentally non-retail service" to which Congress never intended section 251(c)(4) to apply).

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U S WEST

January 21, 1999

Commissioner Harold Furchtgott-Roth
Federal Communications Commission
445 12th Street, NW, 8th Floor
Washington, DC 20554

RE: CC Docket 98-147 Deployment of Wireline Services Offering Advanced Telecommunications Capability

Dear Commissioner Furchtgott-Roth:

Since the Commission is considering what unbundling and resale obligations should apply in the advanced services context, I wanted to offer further analysis regarding the Communications Act's requirements. As U S WEST stated in its comments, requiring an incumbent LEC that offers advanced services on an integrated basis to provide unbundled loops and collocation space is both sufficient to ensure fair competition and consistent with the Act. Adopting additional unbundling obligations for packet-switched data facilities — with respect to which incumbents have absolutely no advantage over new entrants — would needlessly hamper the deployment of advanced services.

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CC: Mr. Kevin Martin

[2/] *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* 11 FCC Rcd 15499, ¶ 874 (1966) (characterizing exchange access as a "fundamentally non-retail service" to which Congress never intended section 251(c)(4) to apply).

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Kathleen Q. Abernathy
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U S WEST

January 21, 1999

Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, NW, 8th Floor
Washington, DC 20554

RE: CC Docket 98-147 Deployment of Wireline Services Offering Advance Telecommunications Capability

Dear Commissioner Tristani:

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CC: Mr. Paul Gallant

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Commissioner Susan Ness
Federal Communications Commission
445 12th Street, NW, 8th Floor
Washington, DC 20554

RE: CC Docket 98-147 Deployment of Wireline Services Offering Advance Telecommunications Capability

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CC: Ms. Linda Kinney

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